**IN THE HIGH COURT OF PUNJAB AND HARYANAAT CHANDIGARH**

**C.W.P.No.15850 of 2010**
**Date of Decision:- 29.02.2012**

Lal Singh Tiwana ....Petitioner(s)

vs.

State of Punjab and others ....Respondent(s)

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**CORAM:- HON'BLE MR.JUSTICE AUGUSTINE GEORGE MASIH**

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Present:- Mr.Balwinder Singh, Advocate,
for the petitioner.

Mr.H.C.Arora, Advocate,
for respondent No.4.

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**AUGUSTINE GEORGE MASIH, J. (Oral)**

Petitioner has approached this Court praying for quashing of order dated 14.6.2010 (Annexure P-1) passed by the Punjab State Information Commission vide which penalty of ₹ 25,000/- has been imposed upon the petitioner and order dated 11.8.2010 (Annexure P-3) confirming the earlier order dated 14.6.2010.

Counsel for the petitioner contends that the information sought by respondent No.4 was through an application dated 23.1.2010, as is apparent from the seal of the Postal Department. Since no information was supplied to the petitioner, he preferred a complaint on 5.3.2010 in which notice was issued to the Public Information Officer, Ludhiana Improvement Trust for 28.4.2010. The same, according to the petitioner, was not received and, therefore, no one had put in appearance on behalf of

the Public Information Officer. Thereafter, notice was issued for 19.5.2010 with a direction to the respondents to supply the information to the complainant before the next date of hearing, failing which the Commission may take action against the Public Information Officer under Section 20(1) of the Right to Information Act, 2005 (hereinafter referred to as 'the 2005 Act'). On the date fixed, i.e. 19.5.2010 again the information was not supplied to the complainant and the petitioner appeared before the Commission and stated that he had recently joined on 11.5.2010 and the information which he had collected, which was incomplete, has been supplied to the complainant. Thereafter, the case was adjourned to 14.6.2010 on which date again the complete information, as required, was not supplied to the complainant, leading to the passing of the order imposing penalty of ₹ 25,000/- upon the petitioner with a further direction to the Principal Secretary, Local Government, Punjab, to recover the amount from the salary of the petitioner and deposit the same with the Government Treasury.

In response to this order, petitioner filed a detailed affidavit dated 26.7.2010 putting-forth his contentions and explaining the delay in supplying the information to the complainant with a further prayer that the penalty imposed upon him be waived off in the light of the explanation. On considering the stand of the petitioner, State Information Commission vide order dated 11.8.2010 confirmed the prior order dated 14.6.2010 and observed therein that the information as sought for by the complainant has not been supplied. It is at this stage that the petitioner had approached this

Court.

Counsel contends that the imposition of penalty of ₹ 25,000/- is not in accordance with the provisions as contained under the '2005 Act'. The stand of the petitioner and the difficulty which was faced by him, as projected in his affidavit dated 26.7.20120, has not been appreciated and taken into consideration by the State Information Commission while passing order dated 11.8.2010 and accordingly he prays that the writ petition may be allowed by setting aside the order of penalty imposed vide order dated 14.6.2010 and as confirmed vide order dated 11.8.2010.

I have considered the submissions made by the counsel for the part and with their assistance gone through the records of the case.

Explanations which have been put-forth by the petitioner through the affidavit dated 26.7.2010 would not be enough to deny a person, who is seeking information within the time stipulated under the Act. The primary contentions raised in the affidavit are the shortage of staff, joining of the petitioner after the notice had been issued, the extension of time for registration of the plots by the Government which led to the rush of registration of plots by the owners and essential duties of Census as per the directions of the Election Commission. These are internal matters which have to be dealt with and taken care of by the Administration and cannot be taken as a ground or a defence for not supplying the information within the time stipulated under the 2005 Act itself. The provisions as contained under the 2005 Act have to be given effect to achieve the objective of this Act which are to bring transparency and accountability of public officials

and to establish the right of the citizen to have the information and these excuses, if taken into consideration, the 2005 Act itself will be rendered ineffective and the purpose with which the Statute has been brought into existence would be frustrated. Therefore, the reasons assigned for not supplying the information at an early date to the complainant cannot be accepted. However, the fact that the petitioner joined on 11.5.2010, which is not disputed, the liability prior thereto cannot be imposed upon him. Giving benefit of this period i.e. prior to 11.5.2010, when provisions under Section 20(1) of the 2005 Act are invoked, the liability of the petitioner comes to ₹ 18,750/-.

In view of the above, the writ petition is partly allowed. Penalty is reduced to ₹ 18,750/- from ₹ 25,000/- as initially ordered. The orders dated 14.6.2010 and 11.8.2010 are modified accordingly.

**February 29, 2012** **( AUGUSTINE GEORGE MASIH )**
**poonam** **JUDGE**